

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RICHARD LOWERY, on behalf of
himself and others similarly situated,

Plaintiff,

V.

TEXAS A&M UNIVERSITY; M. KATHERINE BANKS, in her official capacity as President of Texas A&M University; ALAN SAMS, in his official capacity as Interim Provost and Vice President for Academic Affairs for Texas A&M University; ANNIE S. MCGOWAN, in her official capacity as Vice President and Associate Provost for Diversity at Texas A&M University; and N.K. ANAND, in his official capacity as Vice President for Faculty Affairs at Texas A&M University,

Defendants.

Civil Action No. 4:22-cv-3091

**DECLARATION OF M. CARTER CROW IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT**

I, M. Carter Crow, declare as follows:

My name is M. Carter Crow. I am a partner at Norton Rose Fulbright US LLP, attorneys of record for Defendants in the above-captioned action. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would testify competently thereto.

1. Exhibit 1 to this Declaration is a true and correct copy of a memorandum issued by the Texas A&M University Office of Diversity on December 14, 2022, with the

subject “New ACES Plus Program.” The memorandum is from Annie McGowan, Vice President and Associate Provost for Diversity, and N.K. Anand, Vice President for Faculty Affairs, to Deans at Texas A&M University. I sent a copy of this memorandum to Plaintiff’s counsel, Jonathan Mitchell, via the attached cover email on December 16, 2022.

2. Exhibit 2 to this Declaration is a true and correct copy of Texas A&M University System Policy No. 12-04: Academic Council/Faculty Senate. This policy is publicly accessible on the Texas A&M University System website, in the Policy and Regulation Library, at the following URL: <https://policies.tamus.edu/12-04.pdf>.

3. Exhibit 3 to this Declaration is a true and correct printout of a page on the Texas A&M University website with the heading “Accountability, Climate, Equity, and Scholarship Faculty Fellows Program.” The page is publicly accessible at the following URL: <https://diversity.tamu.edu/Home/Accountability,-Climate,-Equity,-and-Scholarship-F>.

4. Exhibit 4 to this Declaration is a true and correct copy of the complaint filed by Plaintiff Richard Lowery in the case captioned *Lowery v. Mills et al.*, No. 1:23-cv-00129, in the United States District Court for the Western District of Texas on February 8, 2023. This filing is publicly accessible via PACER.

5. Exhibit 5 to this Declaration is a true and correct printout of a page on the University of Florida website with the heading “Inclusive Excellence at UF.” The page is publicly accessible at the following URL: <https://www.ufl.edu/about/diversity>.

6. Exhibit 6 to this Declaration is a true and correct printout of two related pages on the University of Florida website. The first bears the heading “Office of the Chief

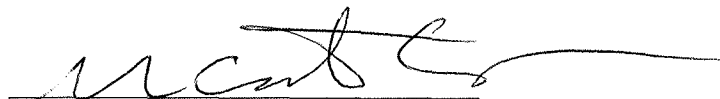
Diversity Officer – About” and is publicly accessible at the following URL: <https://www.cdo.ufl.edu/about>. The second bears the heading “Chief Diversity Officer – Strategic Initiatives” and is publicly accessible at the following URL: <https://www.cdo.ufl.edu/strategic-initiatives>.

7. Exhibit 7 to this Declaration is a true and correct printout of two related pages on the University of Florida website. The first bears the heading “Anti-Racism – University of Florida” and is publicly accessible at the following URL: <https://antiracism.ufl.edu>. The second bears the heading “Anti-Racism – University of Florida – Central Initiatives – Representation” and is publicly accessible at the following URL: <https://antiracism.ufl.edu/central-initiatives/representation>.

8. Exhibit 8 to this Declaration is a true and correct copy of a letter that I sent to Plaintiff’s counsel on January 31, 2023, advising Plaintiff of the grounds for Defendants’ Motion to Dismiss Plaintiff’s First Amended Complaint in accordance with Rule 17(b) of this Court’s Procedures, together with my cover email.

9. Exhibit 9 to this Declaration is a true and correct copy of an email that Plaintiff’s counsel sent to me on February 7, 2023, in response to my letter dated January 31, 2023.

I declare under penalty of perjury that the foregoing is true and correct. Executed
on February 10, 2023 in Houston, Texas.



M. Carter Crow